



Ordinance 15 - 32

An Ordinance Amending Chapter 26, Regulating the Use of Electronic Delivery Devices Where Smoking is Prohibited by the Minnesota Clean Indoor Air Act of the City of Elk River, Minnesota, City Code

The City Council of the City of Elk River does hereby ordain as follows:

SECTION 1. That § 26-31, Definitions of the City of Elk River Code of Ordinances shall be amended to add the following:

Use. The inhaling or exhaling of aerosol or vapor from any electronic delivery device. Use shall also mean being in possession of an electronic delivery device that is turned on or otherwise activated.

SECTION 2. That § 26-32, Purpose of article of the City of Elk River Code of Ordinances shall be amended to add the following:

Because the city recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, tobacco-related devices, nicotine, and electronic delivery devices, and that such sales, possession, and use are violations of both state and federal laws, and because studies, which are hereby accepted and adopted, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking, and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government, this article shall be intended to regulate the sale, possession, and use of tobacco, tobacco products, tobacco-related devices, nicotine, or electronic delivery devices for the purpose of enforcing existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, tobacco-related devices, nicotine, or electronic delivery devices and to prevent young people from starting to smoke as stated in Minn. Stats. § 144.391.

Unregulated electronic delivery devices, commonly referred to as electronic cigarettes, or e-cigarettes, closely resemble and purposefully mimic the act of smoking by having users inhale vaporized liquid nicotine or other substances created by heat through an electronic ignition system. After testing a number of e-cigarettes from two leading manufacturers, the Food and Drug Administration (FDA) determined that various samples tested contained not only nicotine but also detectable levels of known carcinogens and toxic chemicals, including tobacco-specific nitrosamines and diethylene glycol, a toxic chemical used in antifreeze. The FDA's testing also suggested that quality control processes used to manufacture these products are inconsistent or non-existent. ("Summary of results: Laboratory analysis of electronic cigarettes conducted by FDA, "Food and Drug Administration (FDA), July 22, 2009; <http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm173146.htm>)

E-cigarettes produce a vapor of undetermined and potentially harmful substances, which may appear similar to smoke emitted by traditional tobacco products. Their use in workplaces and public places where smoking of traditional tobacco products is prohibited creates concern and confusion and leads to difficulties in enforcing the smoking prohibitions.

SECTION 3. That ~~§ 26-42~~, **Prohibition** of the City of Elk River Code of Ordinances shall be added as follows:

The use of any electronic delivery device is prohibited anywhere smoking is prohibited by the Minnesota Clean Indoor Act, as it may be amended from time to time.

SECTION 4. That ~~§26-43~~, **Other Applicable Laws** of the City of Elk River Code of Ordinances shall be added as follows:

This ordinance is intended to complement the Minnesota Clean Indoor Air Act, Minnesota Statutes sections 144.411 to 144.417, as it may be amended from time to time. Nothing in this ordinance authorizes smoking or the use of an electronic delivery device in any location that is regulated by other applicable laws or regulations.

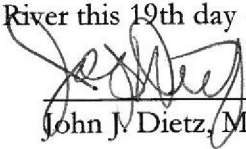
SECTION 5. That §26-73 Penalty of the City of Elk River Code of Ordinances shall be amended to add the following:

(c) Other offenses


- (3) Use Where Prohibited. It is a violation of this ordinance for any person to use an electronic delivery device in an area where prohibited by this ordinance, or to use an electronic delivery device in an area where prohibited by a private policy established by the proprietor or other person in charge of the area.
- (4) Proprietors. It is a violation of this ordinance for the proprietor, person, or entity that owns, leases, manages, operates, or otherwise controls the use of an area in which the use of an electronic delivery device is prohibited under this ordinance to knowingly fail to comply with the provisions of this ordinance.

SECTION 6. That this ordinance shall take effect 60 days after publication.

Passed and adopted by the City Council of the City of Elk River this 19th day of October, 2015.


John J. Dietz, Mayor

ATTEST:


Tina Allard, City Clerk